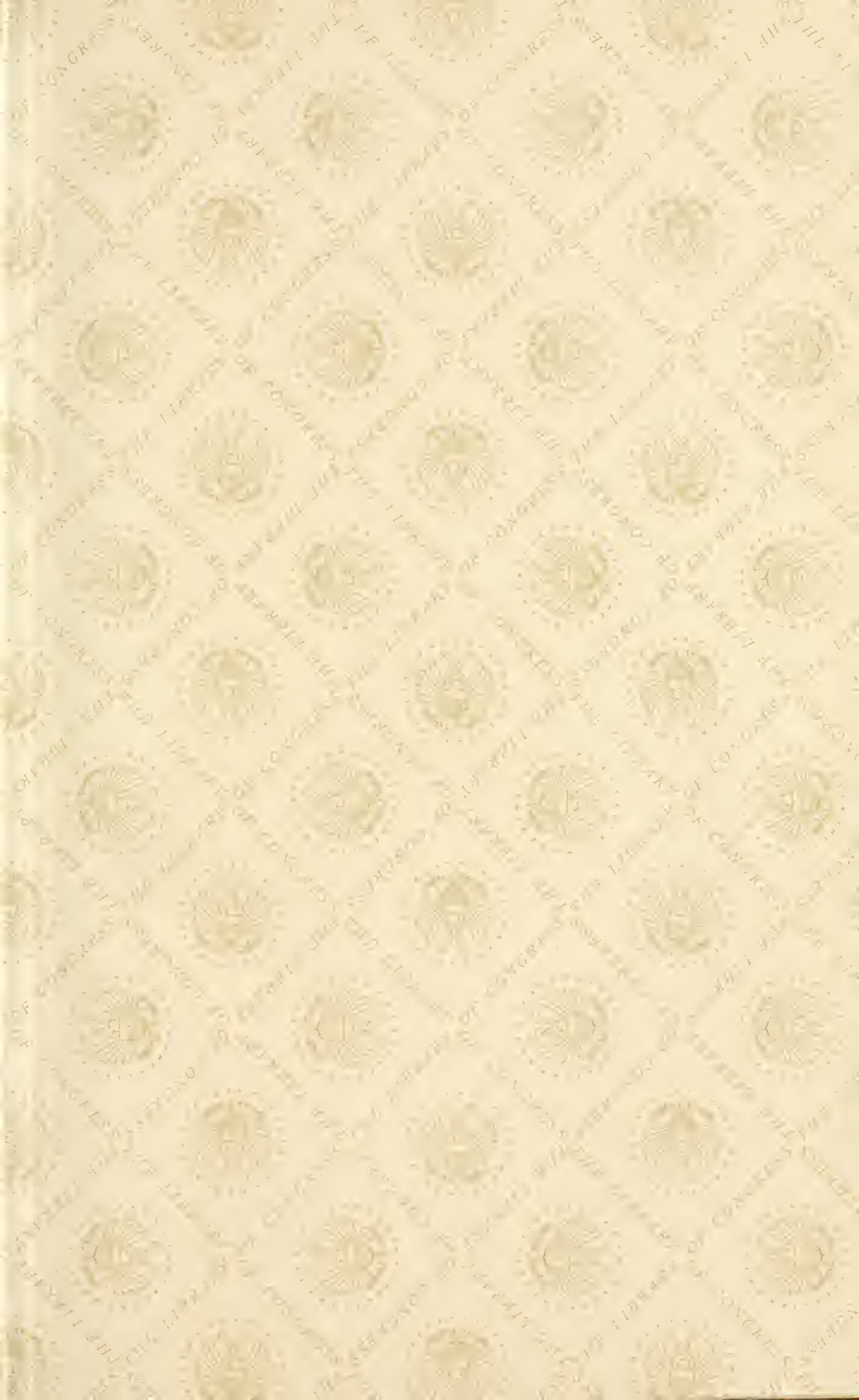


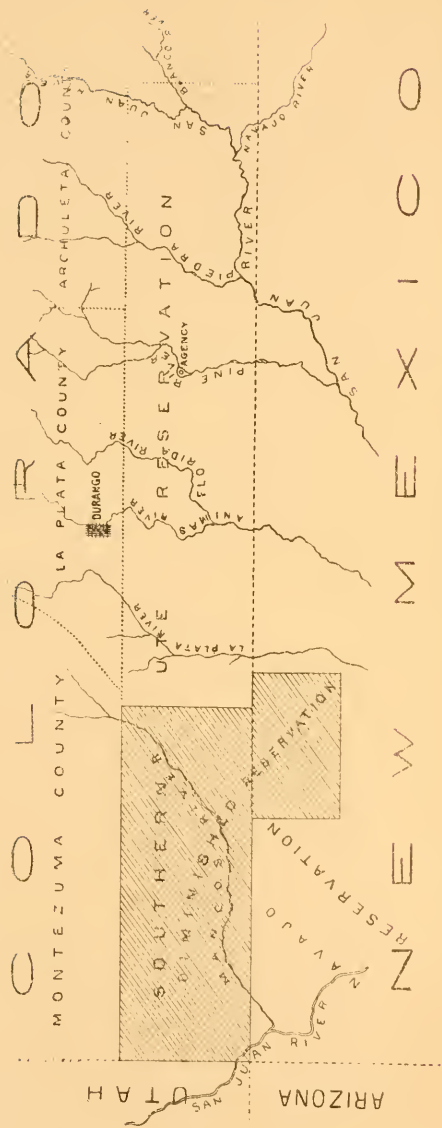
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The Latest Phase of the Southern Ute Question.

A REPORT BY FRANCIS E. LEUPP, WASHINGTON AGENT OF
THE INDIAN RIGHTS ASSOCIATION.

The history of the Southern Ute tribe of Indians up to the beginning of the present year is too familiar to the members of the Indian Rights Association to call for recital in detail, but a reference to some of its most salient features is necessary to make this report self-consistent and complete.

The reservation on which the tribe is now living is a rectangle of territory in Colorado, bounded on the east by the 107th meridian of longitude, on the south by the northern line of New Mexico, on the west by the western line of Colorado, and on the north by a line running parallel to the southern boundary and 15 miles distant from it. The dimensions of the reservation are 110 miles from east to west and 15 miles from north to south, and its area about 1,100,000 acres.

A treaty made in 1868 gave the Ute nation as a whole a reservation very much larger and more conveniently shaped; but the discovery of valuable mineral deposits in what is known as the San Juan mining region led to the negotiation of a new treaty in 1873, whereby the Indians consented to cede to the Government all that part of the reservation which the whites then coveted. The narrow strip of territory on the southernmost border, on which the three bands composing the Southern Ute tribe—the Weeminuches, Moaches and Capotes—were already living was among the land retained.

The Meeker massacre occurred at the White River

agency in 1879, and a commission was appointed in 1880 to arrange for the removal of the White River Utes to Utah, and for the settlement of the Uncompahgres and Southern Utes in severalty in Colorado on lands along the Grand and La Plata rivers respectively. While the selection of lands under this agreement was in progress, a race collision occurred which threatened serious consequences, and the Indian Bureau decided upon the immediate removal of all the Ute nation except the Southern Utes to Utah. The work of making allotments was suspended indefinitely, and the Southern Utes were left on their long and narrow reservation, surrounded on all sides by white settlements, cut off from their own kindred by many miles of intervening territory, and having for their nearest Indian neighbors the friendly but more civilized Navajos.

But, although the Southern Utes were disposed to be peaceful, and although their reservation was so hemmed in that they could not, if they wished, make much trouble for their white neighbors, the citizens of Colorado were resolved to get rid of them altogether. To this end legislation was procured from Congress for the removal of the whole tribe to a reservation in Utah, and another Government commission was appointed in 1888 to obtain their consent to the change. The members of this body had been led to believe, before going to Colorado, that they would find their task an easy one; to their surprise, however, the Indians at first showed no disposition to move; and it was only after spending four months among them, holding frequent conferences and exhausting the arguments in favor of their accepting the Government's proposals, that the Childs Commission—so called in honor of its secretary, the Rev. T. S. Childs—returned to Washington bearing an agreement with the requisite number of signatures appended and ready for final ratification by Congress.

Perhaps it would be safe to say that no negotiation ever attempted with a tribe of Indians has given rise to so much public discussion as this. Certainly none of which the

present writer has any knowledge has furnished the self-seeking whites with more opportunities for villification and abuse of the Indians' disinterested friends. My predecessor, the lamented Charles C. Painter, visited the proposed new reservation in Utah and reported adversely on its merits as a home for Indians who were to be educated for citizenship through the pursuit of agriculture. A committee of two members of the Indian Rights Association, Messrs. Francis Fisher Kane and Frank M. Riter, later made a special journey through the very heart of the proposed reservation, and reported against it yet more emphatically if possible. Meanwhile, the projectors of the scheme for ousting the Indians from Colorado were describing it everywhere as an ideal site for the purpose for which it was designed. Part of these gentry professed to find a sufficient reason for the adverse reports in the bribery of the several traveling representatives of the Association, and in the corruption of its home staff of officers by munificent contributions to its treasury from a corporation which was then grazing cattle upon the public land offered to the Indians, and which was willing to buy off this threatened intrusion upon its squatter domain. Such charges are, of course, too contemptible for serious notice.

Another class of special pleaders took more moderate ground, and assumed that everybody connected with the Indian Rights Association had been honestly misled. Both Mr. Painter and the committee, they argued, had fallen into the hands of guides hostile to the plan of removal, and been carried only over parts of the proposed reservation which would be sure to impress them unfavorably. Admitting the possibility of this, the argument suggests its own answer. It was the business of all three gentlemen to discover, not how much might be said in favor of the project—for it had passed the stage where outside advocacy could add anything to its momentum—but whether there were any good reasons why the bargain between the Government and the Indians should not be consummated after so much time, trouble and money had been expended

in bringing it to definite terms. That the objections visible on such journeys as they took were sufficient to convince these high-minded and intelligent men of the practical unwisdom of the plan for removal, cuts off inquiry as to how much of the country they saw. It is plain that they saw enough of the bad to neutralize the effect of such good specimens as might have been skillfully insinuated into their field of view if they had given themselves over to the guidance of parties interested in influencing them in favor of the scheme. In such a country, and under such conditions as then obtained, all men are partisans; if the seeker for truth is convinced by one side, no matter which side it may be, the champions of the other are bound to depreciate his judgment or assail his motives.

Setting aside, therefore, all controverted points as to the character of the land in the proposed reservation in Utah, the sufficiency of the water, and the other features immediately related to the possibilities of agriculture, there still remains one reason for the stand taken, and successfully maintained, by the Indian Rights Association against the ratification of the Childs Commission's treaty, which abundantly proves its fundamental soundness. Mr Painter was at first suspicious of the meaning of the sudden change of mind among the Indians which turned their stubborn opposition into apparently hearty consent. In order to satisfy himself as to the genuineness of their conversion, he held a number of private conferences with leading men in the tribe, and discovered that they had been won over by a representation that in their new quarters they would be practically out of reach of the whites and could do pretty nearly what they pleased without even the moral restraint of being watched, and that the Blue and Elk Mountains of Utah were full of game which they could hunt at will. Both these statements were unexceptionable in point of truth. Indeed, it was because they were irrefutable that they were most dangerous as enticements, for they pointed backward and not forward, downward and not upward—toward the re-

lapse of the tribe from its first tentative steps in civilization and not toward its further progress up the scale. It was a pitiful fact that even those Indians who had begun to make some crude efforts for self-support had yielded to the allurements of a promise of social isolation and the excitement of the chase. That discovery settled in Mr. Painter's mind the course he should pursue. His duty pointed only one way, and in that direction he set his face, addressing all the energies of his forceful nature to the defeat of the removal plot, with a success which has become historic.

THE HUNTER BILL.

The first failure did not discourage the conspirators. They took a fresh breath, and went at their work again. To their persistent agitation of the removal project must be given the credit of keeping Congress reminded of the existence of an unsettled Southern Ute question, and probably a desire to get this question out of the way forever was the prime incentive to the drafting of what was known as the Hunter bill—H. R. 6792—introduced in the second session of the Fifty-third Congress. I say "probably" because the origin of the bill seems to be shrouded in mystery. A widespread supposition in Washington is that it was drawn by a citizen of Southwestern Colorado. In Southwestern Colorado this suspicion is resented, and persons there who assume to speak with the highest authority have informed me that it was drawn by Andrew J. Hunter, a Representative-at-Large in the last Congress from the State of Illinois. Mr. Hunter, however, denies that he drew the bill or even knows who did draw it; he says that it had its birth in the House of Representatives Committee on Indian Affairs, of which he was a member, and that he was instructed by the committee to introduce it.

The original title to the bill described its purpose as "To disapprove the treaty heretofore made with the Southern Ute Indians to be removed to the Territory of Utah, and providing for settling them down in severalty

where they may so elect and are qualified, and to settle all those not electing to take lands in severalty on the west forty miles of present reservation and in portions of New Mexico, and for other purposes." To this was added later the clause: "And to carry out the provisions of the treaty with said Indians June 15, 1880."

In order that the reader may see at a glance the changes through which the Hunter bill passed on its course from introduction to enactment—some of them being very significant—I have prepared the following transcript, showing in plain type those parts of the original text of the bill which survived and became law, between brackets and in italics those parts which were stricken out, and in small capitals the additions made by amendment in the one or the other House of Congress:

Be it enacted, etc., That the agreement made by J. Montgomery Smith, Thomas S. Childs and R. B. Weaver, commissioners on the part of the United States, with the Southern Ute Indians of Colorado, bearing date November thirteenth, eighteen hundred and eighty-eight, be and the same is hereby [*disapproved and*] annulled, AND THE TREATY MADE WITH SAID INDIANS JUNE FIFTEENTH, EIGHTEEN HUNDRED AND EIGHTY, BE CARRIED OUT AS HEREIN PROVIDED, AND AS FURTHER PROVIDED BY GENERAL LAW FOR SETTLING INDIANS IN SEVERALTY.

SEC. 2. That within [*ninety days*] SIX MONTHS after the passage of this act the Secretary of the Interior shall cause allotment of land, in severalty, to be made to such of the Southern Ute Indians in Colorado as may elect and be considered by him qualified to take the same out of the agricultural lands embraced in their present reservation in Colorado, such allotments to be made in accordance with the provisions of the Act of Congress approved [*February eighth, eighteen hundred and eighty-seven*] JUNE FIFTEENTH, EIGHTEEN HUNDRED AND EIGHTY, entitled "*An act to provide for the allotment of lands in severalty to Indians on the various reservations and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes*]" ACCEPT AND RATIFY THE AGREEMENT SUBMITTED BY THE CONFEDERATED BANDS OF UTE INDIANS IN COLORADO FOR THE SALE OF THEIR RESERVATION IN THAT STATE, AND FOR OTHER PURPOSES, AND TO MAKE THE NECESSARY

APPROPRIATIONS FOR CARRYING OUT THE SAME, AND THE AMENDMENTS THERETO, AS FAR AS APPLICABLE HERETO, and the treaties heretofore made with said Indians: PROVIDED, THAT INDIANS TAKING ALLOTMENTS AS HEREIN PROVIDED SHALL RETAIN THEIR INTEREST IN ALL TRIBAL PROPERTY.

SEC. 3. That for the sole and exclusive use and occupancy of such of said Indians as may not elect or be deemed qualified to take allotments of land in severalty, as provided in the preceding section, there shall be, and is hereby, set apart and reserved all that portion of their present reservation lying west of the range line between ranges thirteen and fourteen west of the New Mexico principal meridian, and also all of townships thirty-one and thirty-two of ranges fourteen, fifteen and sixteen west of the New Mexico principal meridian and lying in the Territory of New Mexico, subject, however, to the right of the Government to erect and maintain agency buildings thereon and to grant rights of way through the same for railroads, irrigation ditches, highways and other necessary purposes; and the Government shall maintain an agency at some suitable place on said lands so reserved.

SEC. 4. That at the expiration of [*ninety days*] SIX MONTHS from the passage of this act the President of the United States shall issue his proclamation declaring the lands embraced within the present reservation of said Indians, except such portions as may have been allotted or reserved under the provisions of the preceding sections of this Act, open to occupancy and settlement, and thereupon said lands shall be and become a part of the public domain of the United States, and shall be subject to entry under the desert, homestead, and townsite laws and the laws governing the disposal of coal, mineral, stone, and timber lands; but no HOMESTEAD settler shall receive a title to any portion of such lands at less than one dollar and twenty-five cents per acre, AND SHALL BE REQUIRED TO MAKE A CASH PAYMENT OF FIFTY CENTS PER ACRE AT THE TIME FILING IS MADE UPON ANY OF SAID LANDS: Provided, That before said lands shall be opened to public settlement the Secretary of the Interior shall cause the improvements belonging to the Indians on the lands now occupied by them to be appraised and sold at public sale to the highest bidder: except improvements on lands allotted to the Indians in accordance with the provisions of this Act. No sale of such improvements shall be made for less than the appraised value, and the several purchasers of said improvements shall, for

thirty days after the issuance of the President's proclamation, have the preference right of entry of the lands upon which the improvements purchased by him are situated: Provided further, That the said purchase shall not exceed one hundred and sixty acres: And provided further, That the proceeds of the sale of such improvements shall be paid to the Indians owning the same.

SEC. 5. That out of the moneys first realized from the sale of said lands so opened up to public settlement there shall be paid to said Indians the sum of fifty thousand dollars, as follows: [*ten*] FIVE thousand dollars annually for [*five*] TEN years, and, when paid, the money to be equally divided among all of said Indians per capita, irrespective of age or sex; also the sum of twenty thousand dollars of said proceeds shall be paid to the Secretary of the Interior, who shall invest the same in sheep and divide the said sheep among the said Indians per capita equally, irrespective of age or sex; also to Ignacio, head chief; to Buckskin Charlie, as chief of the Moaches, and Mariano, as chief of the Weeminuches, the sum of five hundred dollars each; also to Tapucke and Tabewatch, as chiefs of the Capotes, the sum of two hundred and fifty dollars each; that the balance of the money realized from the sale of lands, after deducting expenses of sale and survey, shall be held in the Treasury of the United States in trust for the sole use and benefit of said Southern Ute Indians. [*The Secretary of the Interior may in his discretion cause to be paid any or all of the above sums of money out of the trust fund now held for said Indians by the Government, and shall cause the same to be replaced from the proceeds of the sale of said lands to be opened for settlement.*] THAT NOTHING HEREIN PROVIDED SHALL IN ANY MANNER BE CONSTRUED TO CHANGE OR INTERFERE WITH THE RIGHTS OF SAID INDIANS UNDER ANY OTHER EXISTING TREATY REGARDING ANY ANNUITIES OR TRUST FUNDS OR THE INTEREST THEREON.

SEC. 6. THAT THE FOREGOING PROVISIONS OF THIS ACT SHALL TAKE EFFECT ONLY UPON THE ACCEPTANCE THEREOF AND CONSENT THERETO BY A MAJORITY OF ALL THE MALE ADULT INDIANS NOW LOCATED OR RESIDING UPON THE RESERVATION, WHICH ACCEPTANCE SHALL BE AT ONCE OBTAINED UNDER SUCH REGULATIONS AS THE SECRETARY OF THE INTERIOR MAY PRESCRIBE.

TACTICS PURSUED.

In the absence of any evidence to the contrary, it is only fair to assume that the authors of the bill had a

humane end in view in trying thus to settle finally the whole vexed question of the disposal of the Southern Utes. When these Indians were taken to Colorado from the Cimarron country in New Mexico, where they first passed under the dominion of the United States Government, they were told by the federal agents who superintended their removal that they were to occupy their new home forever. The series of negotiations initiated by the Government at irregular intervals, and concluding with the visit of the Childs Commission in 1888, all had for their aim some disturbance of existing conditions. The Indians opposed each suggestion of change. But when the attractive arguments of the Childs Commission and all the combined forces of local influence exerted from Durango at last won them over to the idea of removal into Utah, Congress, with an awakened conscience, properly refused to consummate the bad bargain it had set on foot. All these events necessarily kept the Indians in a state of unrest. Those who had begun to take a little interest in the arts of civilization suspended further attempts at self-improvement till it could be ascertained what Congress was going to do. Of those who had not, few were venturesome enough to begin. The Indian Bureau felt that its hands were tied till something definite had been done, because any efforts it might make for the permanent benefit of the tribe were liable to be suddenly brought to nought by the passage of an act to ratify the treaty of 1888; hence it did nothing toward starting reservation schools. Of course, such a paralysis was fatal to the interest of the Indians from every point of view. With no incentive to work, and no place to hunt, they would be idle; and idleness was even more to be dreaded, if possible, than a return to primitive methods of procuring subsistence, for it meant absolute dependence on Government rations, or, in other words, complete pauperization. To take the Indian from the wild life in which at least some manly traits were fostered in him by facing danger and enduring privation, force him to adapt himself to a

civilization which reversed every principle and theory inherited from his ancestors and then leave him without a helping hand is a cruel wrong; and it is this inhumane treatment which the Southern Utes have suffered for the last seven years at least.

However strong may have been the desire of the authors of the Hunter bill to end the Southern Ute agitation and enable the work of civilizing the Indians to be renewed, they were powerless to execute it till Durango had given its consent. The Senators from Colorado were unswervingly loyal to the narrow local interests of their constituents, and the rules of the Senate, including the unwritten rule of "courtesy," put it into the power of any pair of Senators to block local legislation to which their State objected. A number of prominent citizens of Durango and its neighborhood visited Washington while the bill was in its critical stage to consult with Senators Teller and Wolcott. One result of this was a request made of the Secretary of the Interior by the two Senators that he would write them a letter defining his attitude toward the proposed legislation. Their object seems plain enough, in the light of more recent events. The merits or demerits of the bill, from Durango's point of view, lay less in its terms than in the manner of its execution. The Secretary, owing to the large discretion vested in him, was in a position to further or defeat the plans of the Durango delegation, and the thing to do now was to commit him to a definite policy: if the policy was satisfactory they could permit the bill to pass; if not, they could "hang it up" in the Senate till the expiration of the Congress, when it would die without coming to a vote.

Senator Vilas of Wisconsin, having been Secretary of the Interior for the latter half of President Cleveland's first administration, and having been an earnest advocate of the Utah removal plan, had studied many of the phases of the Southern Ute question quite as thoroughly as the Colorado Senators, and understood them quite as well. He observed that, whereas the consummation of former agree-

ments had been made by law dependent on the consent of three-fourths of the adult male members of the tribe, the present bill, as it passed the House of Representatives, ignored any necessity for consulting the wishes of the Indians at all. Therefore, for reasons which will appear later, he introduced an amendment making the cession of the eastern end of the reservation dependent upon the consent of "a majority of all the adult male Indians now located or residing upon *that portion* of the reservation."

The Secretary of the Interior, assuming in good faith that the only question before him was whether in his judgment, the pending bill ought or ought not to be enacted into law, called upon Mr. Pollock, chief of the Indian division in his office, for such a report on the condition of the Southern Utes as could be prepared from the data on his files, and, on receiving it, sent the following communication to the Senators from Colorado:

Hon. H. M. Teller, Hon. E. O. Wolcott, United States Senate.
Sirs:

In compliance with your oral request, I have caused an examination to be made of H. R. 6792 and of the proposed amendments offered by Senator Vilas.

Enclosed you will find a copy of a report made upon this subject by the Chief of the Indian Division.

I have also considered the subject carefully myself. The failure of these Indians to make better progress has been largely due to the uncertainty which has existed on their part, as to what disposition Congress would make of the treaty which contemplated their removal to Utah.

The statistical information contained in the report of the Chief of the Indian Division is based upon detailed statements furnished to the Indian Office by special agents, and also upon a recent report to the Department by the agent now in charge.

With the Indians in the condition shown, I cannot believe it is wise to undertake an allotment of land to them in severalty. I am of the opinion that Congress should definitely decide to leave the Indians where they are, and let the subject rest there for twelve months longer, during which time it will be determined what progress can be made with the Indians no longer doubtful as to where their future homes are to be located.

In the view which I have expressed, the Commissioner of Indian Affairs concurs.

Very respectfully,

HOKE SMITH,
Secretary.

MEMORANDUM.

Mr. Secretary:

I find the condition of the Southern Ute Indians about as follows:

The reservation is occupied by the following bands:

Capote Ute,	190
Moache Ute,	273
Weeminuche Ute,	553

1,016

Nearly all of these Indians are in the blanket and legging stage, only one wearing citizen's dress wholly and ten partly. One can read English. Three can speak English well enough for ordinary conversation.

There are 27 dwelling houses on the reservation occupied by Indians, and these are occupied by the few (30) who are engaged in farming. The others live almost wholly in lodges and tepees.

Nine of the men are now living in a state of polygamy.

Ten per cent. of these Indians obtain their subsistence by labor in civilized pursuits; forty per cent. by hunting, fishing, root-gathering, etc., and fifty per cent. by the issue of Government rations.

They have 425 acres under fence; they own 5,500 ponies and 50 mules; 50 cattle and 5,000 sheep and goats; 130 domestic fowls.

In view of this condition I doubt very much the advisability of any legislation which will place them outside the protecting lines of the reservation and force them into competition with the whites in efforts to secure the means of existence.

It is clear that few, if any, are prepared to take an allotment in the eastern part of their present reservation as contemplated both by House bill 6792 and the amendments proposed thereto by the Senate. If the bill as it passed the House should finally become a law its effect would be to concentrate these Indians upon the diminished reserve. If this is to be done the better plan in my opinion would be to negotiate with them for the cession of the eastern

part of their reservation outright, leaving entirely out of the question allotments therein.

The House bill has several objectionable features. It does not provide for obtaining the consent of the Indians to the sale of that part of their lands contemplated to be sold; it requires allotments to be made within ninety days after the passage of the act, and it does not definitely fix the price at which the different classes of lands shall be sold, making simply a minimum price for all, whether they be agricultural, desert, coal, mineral, stone or timber lands.

This certainly should not be enacted as a law in its present shape.

The amendments proposed in the Senate meet some of the objections noted above. These amendments, however, provide that the cession of the eastern portion of the reservation may be made "upon the consent thereto by a majority of all the adult male Indians now located or residing upon that portion of the reservation." This is in my opinion wrong. The reservation is held in common by the Indians, and those upon the western portion have just the same interest in the eastern part as those who reside there. It should provide for the consent of all the Indians.

The same objection applies to section 6. It provides that this act shall be submitted for ratification by a majority of the adult male Indians located or residing upon the eastern portion of the reservation.

Very respectfully,

W. C. POLLOCK,
Chief Indian Division.

THE BILL PASSED.

It must be plain to any intelligent reader of the Secretary's letter in the light of all the incidental facts, that his purpose was to state simply that he did not favor the proposed legislation, but preferred to substitute for the bill as it stood some kind of guaranty by Congress that the Indians should be left undisturbed for the present, so as to justify him in putting into operation his plans for their permanent improvement. This could have been accomplished by striking out everything in the title after the word "Utah," and everything in the bill after the word "annulled" in the first section. But the Durango delegation

had other plans. Jumping to the unwarrantable conclusion that the Secretary had committed himself not to allot land to the Indians on the east end of the reservation who would be ousted if the bill should be enacted into law, they approved the proposed legislation with such modifications as Mr. Pollock had suggested, including, of course, the defeat of the Vilas amendment submitting the question of the cession of the east end of the reservation to the Indians then occupying it. For this was substituted a provision for the consent of "a majority of all male adult Indians now located or residing upon the reservation." The usual requirement of a three-fourths vote was thus exchanged for a bare majority, and that majority spread over practically the whole tribe; and the reason why this was satisfactory to Durango will be understood by the reader when it is recalled that the Weeminuche band somewhat outnumbers the combined bands of Moaches and Capotes, though not nearly in the proportion of three to one. The Weeminuche band contains the bulk of the unprogressive, nomadic, troublesome element in the tribe. To it belongs Ignacio, the chief of the whole tribe, who, though shrewd enough to realize that in peace with the whites lies the Indians only hope of escaping extermination, is bitterly opposed to everything which points toward civilization. In his eyes labor is degradation, the school an enervating influence, and individual property or thrift a crime against the sacred traditions of his race. Mariano, the chief of the Weeminuche band, shares all Ignacio's stubborn conservatism, with a strain of ill-concealed malignity toward the white people added; if change of some sort is inevitable, his one idea is to have it in the direction of a more hopeless vagrancy—the greatest luxury coupled with the least responsibility. With such leadership, it was safe to assume that the Weeminuches would vote for anything which would tend to keep them under savage as distinguished from civilized influence. Moreover, they were already occupying the western end of the common reservation, the very part which was marked by the bill for the

bulk of the new diminished reservation. By approving the bill, therefore, they would not be voting for their own disturbance; on the contrary, the bill provided for the establishment of an agency on the new reservation, which meant that they would be saved a considerable journey in going after their rations, their per capita money and their police wages. For some time there has been an estrangement between this band and the Moache and Capote bands, who occupied the eastern end of the reservation and contained the progressive element in the tribe. The Moaches and Capotes naturally would not wish to forsake such improvements as they had made on the east end of the reservation and take up their dwelling among a band opposed to them in all respects. Such a course would hold out a promise only of dissension and retrogression. It was his understanding of this situation which induced Senator Vilas to offer his amendment requiring a ratification of the act by the Indians residing on "that portion" of the reservation which was to be ceded and thrown open. Whatever may be said of the technical right of the whole tribe to vote upon any question affecting its common property, the moral right, in the instance under consideration, was clearly confined to those Indians whose ultimate fate, for good or ill, was going to be sealed by the verdict of a majority of their number.

In its amended shape the bill was passed, but was held by the President for several days under consideration, and then signed on February 20, 1895, only upon the assurance that no better legislation could be hoped for, and with a full understanding of the purpose of the Secretary of the Interior to execute the act strictly in the interest of the Indians.

THE ACT ACCEPTED.

The spring of 1895 found the Secretary faced with the following duties in respect to the Southern Utes:

1. He was to ascertain whether "a majority of all the male adult Indians now (February 20) located or residing

upon the reservation accepted and consented to" the act; if they did so—

2. He was to "cause allotment of land in severalty to be made to such of the Southern Ute Indians in Colorado as may elect and be considered by him qualified to take the same out of the agricultural lands embraced in their present reservation in Colorado" in accordance with the act of June 15, 1880, its admendments, "and the treaties heretofore made with the said Indians;" and

3. He was to remove those Indians who did not receive lands in severalty to the new diminished reservation.

Meredith H. Kidd, who had lately retired from service on the Dawes Commission in Indian Territory, was appointed special commissioner to the Southern Utes for the purposes of the act of February 20, 1895, and established his headquarters at Durango in May. Later, as his personal views of the situation underwent a change which made it embarrassing for him to carry out the Department's instructions, Thomas P. Smith, Assistant Commissioner of Indian Affairs, joined him at Durango and remained there, or in the neighborhood, until the whole business was well on toward its conclusion. Mr. Kidd's first task was the taking of the vote on the question of accepting the act. He recorded the preferences of all who presented themselves and claimed a right to vote, including at first a number of Pah-Utes, or renegade Utes, who had been living in Utah, but who, scenting some substantial advantage to be gained by joining their fellow tribesmen in Colorado at this juncture, had come in at the west end and asked to be enrolled. Weeded of this element, which had to be excluded under the clause confining the vote to the Indians "now"—that is, on the 20th of February—"located or residing upon the reservation," the result reported to the Indian Bureau by Mr. Kidd is shown in the following figures:

Male adults enrolled and entitled to vote	301
Number voting in favor of accepting the act of	
Congress	153
Number not so voting	148
Ascertained majority in favor of accepting the act .	5

On this affirmative margin, narrow as it was, the Secretary felt that it was his duty to regard the act as accepted by the tribe and to proceed with the allotment of land in severalty to those Indians who might "elect and be considered by him qualified." Those who "elected" to take allotments would make themselves known in response to the asking; the difficulty was to distinguish those who were "qualified." Some of the Moaches and Capotes had already made little beginnings in the arts of civilization. They had built rude houses and barns, cleared fields of the native sage-brush and planted and harvested crops there. A few of the women had learned to use a sewing-machine. Buckskin Charlie's old squaw had trained running vines—annuals at that, which would require the task of replanting every spring—to grow against his cabin. Charlie himself was taking kindly to farm machinery as a substitute for the more primitive hand tools, and showed not a little intelligence in managing it. The sales-book of the post-trader showed that his trade in table-dishes, and beds, and stoves, and white men's clothing, and accessories of the civilized toilet, was steadily on the increase. Ideally, doubtless, it might be that the majority of the members of the eastern bands were not in a condition to be thrown wholly on their own resources for self-support; but, practically, having had the crisis forced upon him after doing all he could to avert it, the Secretary had now to consider four facts:

1. From the temper shown by Congress, the disposition of the people of Colorado, and the ability of the Senators from that State to block the progress of any local bill which did not satisfy their constituents, it was hopeless to look for legislation in the interest of the Moaches and Capotes.

2. The law of February 20, 1895, specified six months as the period within which its main provisions were to be executed, and, although the duties imposed upon him by the act could not possibly be performed by August 20, it was plainly intended that they should be performed as soon as possible thereafter.

3. The Moaches and Capotes, owing to their estrangement from the Weeminuches, would never go voluntarily to live among the latter.

4. If the Moaches and Capotes were forced to go to live among the Weeminuches they would cut loose entirely from the civilization which they had begun in a crude way to cultivate, and the whole tribe would soon sink to the level of its least progressive element.

In short, it was his opinion that the only hope for the future of any of these Indians lay in encouraging those who showed a disposition to help themselves, and trusting to the spur of necessity to do what precept, example, and even self-pride left undone. His view, moreover, was in conformity with the spirit of the Dawes severalty act, under which the President, had he seen fit, might have ordered the allotment of lands to the Southern Utes without waiting for direct legislation; and the Dawes act had been especially recognized by, and incorporated with, the Hunter act as finally passed and approved in the closing lines of the first section. Indeed, if all the Moaches and Capotes had waited until the cession of the east end of the reservation was complete and then had applied, under the fourth section of the Dawes act, for allotments of the land on which they were settled, they would have been entitled to patents, no matter what might have been the opinion of the Secretary of the Interior as to their capacity for self-support.

I have gone thus fully over the allotment question at this point so as to make clear the obligation of the Secretary of the Interior to take precisely the course he did take; for the air of Durango and its neighborhood, at the latest advices, was thick with denunciation of the Secretary, the Commissioner and Assistant Commissioner of Indian Affairs, and everyone engaged or interested in the settlement of the Southern Ute question who had ventured to assert that the officers named had been guilty of no violation of law. All this violent irritation is easily explained. A plan to drive back into barbarism a handful

of Indians who were struggling to do something for their own improvement had been defeated by the policy of the executive branch of the Government in executing the whole law, and not merely that part of it which would have been most profitable and satisfactory to the engineers of the scheme. They who had gone forth to shear had come back shorn, and it was a disappointing experience.

THE INDIANS WARNED.

In due course the Indians were notified that the time had come for enrolling all who wished allotments of land, and a day was appointed for those to present themselves at the agency. Commissioner Kidd, who had this matter in charge, was detained elsewhere by other business and deputed the agency clerk, Max A. Brachvogel, to conduct the enrollment. The agent, David F. Day, was in and out of the room where this work was going on, but took no part in it even as adviser; Mr. Kidd having been designated the sole representative of the Interior Department, the agent did not feel justified in interfering in any manner. The clerk's duties being wholly delegated, and his instructions from Mr. Kidd not going beyond the mere taking of the record, there was no officer or employee of the Government at hand prepared to assume responsibility for acquainting the assembled Indians with the full significance of the step they were about to take. This was unfortunate, for Mr. Kidd had informed me, a few days before, that he had not as yet explained to these Indians the serious side of the allotment question. Before the first stroke of the pen had been made, therefore, I rose and requested a stay of proceedings till I could make a statement. I then proceeded to go over the whole subject as fully and as plainly as my command of words would permit. I warned the Indians that this was not a question of simply taking up land, but that, under the severalty law, everyone who took land would become by that act an American citizen; that citizenship meant the dissolution of tribal government and the subjection of all to the

law of the State of Colorado; that the only thing the Government of the United States could do for them thereafter was to give them such money and supplies as it was bound by treaty to give, to aid them with advice and instruction in learning agriculture, and to hold their land in trust for a term of years so that it would be free from taxation; that when an Indian murdered or assaulted anyone, burned houses or committed theft, was drunk and disorderly, or in any other way rendered himself liable to punishment under the white man's laws, no agent could protect him from the sheriff or the police, but that he would have to be tried and suffer like the white law-breaker; that if an Indian trespassed on a white man's land the white man could sue him and recover money to pay for whatever damage had been done. I reminded them that the Indian's ways were very different from the white man's ways; and that many things which were now treated as of no consequence because done by an Indian on a reservation, would become serious offences as soon as the reservation had been thrown open and the Indian had made himself a citizen and thus placed himself on the same footing with the white man before the law. The white man, I added, had to work hard to make a living, because the Government could not help him; and the Indian would find that he would have to do the same thing, in spite of such aid as the Government might give him. If he became a citizen he would be expected to send his children to school, so as to fit them better to compete with the white man and to do business in the white man's way.

There was more to the same general effect, but I have cited enough to show into what line I tried to direct the thoughts of my audience. Every possible objection to citizenship, from the Indian's point of view, I endeavored to set forth with the greatest clearness; for I was resolved that no Indian within reach of my voice should ever afterward have a right to say that he had taken an allotment of land in ignorance of the consequences of his act. I

spoke in English, and John Taylor, the agency interpreter, translated my remarks into the Ute tongue. Buckskin Charlie, chief of the Moaches; Severo, chief of the Capotes, and a large number of their followers of both sexes were present. Several of these Indians, to my knowledge, understood simple English, though unable to use it with any fluency themselves. If the interpreter had not made my meaning plain, therefore, they would promptly have discovered it. I had still another safeguard against misunderstanding, in the fact that the Indians listened closely and asked a number of intelligent questions concerning points I had made. Two examples of these will suffice. Buckskin Charlie said: "There is one matter I should like made plainer. You have said that, while the Government has control of our land, we cannot be taxed on it; yet you say that we shall be citizens like the white people, and they are taxed by the State. Will not the State tax us at all?"

I answered: "You have asked me a hard question. The law of 1880, under which the present law says that your allotments shall be made, declares distinctly that your lands and personal property shall not be subject to taxation during a given period. I am not learned enough to tell you whether such a law could be carried out. My own opinion is that it could not. I believe that, if the State of Colorado should make a law to tax horses and wagons, goats and dogs, for example, you would have to pay such a tax, and that such things as those could be seized by the sheriff and sold to raise the money if you neglected to pay it. However, that is something which the white men's courts would have to settle. My only object in speaking to-day is to warn you of the worst you may have to expect."

Another question was: "When you say that the Government will not be able to do so much for us as heretofore, do you mean that the agency will be taken away from us?"

I answered: "I am not here to make promises for the

Government, for I am not an officer of the Government. All I can do is to repeat what the Commissioner of Indian Affairs said to me when I talked with him in Washington a few days ago. He said: 'The Secretary of the Interior wants to do all he can for the Southern Utes to make them comfortable and happy, and I want to do the same. We shall not neglect those who take allotments; but we shall establish a sub-agency among them, and see that they have a good school, and a farmer to teach them how to work their land, and whatever else we are able to give them to help make them good and useful people. We want them to know how friendly we feel toward them, so that they will not fear that they are going to be left alone and helpless.' That is all I can say on that point. It was just a talk between the Commissioner and myself. I have no authority from the Government at Washington to make you any promises whatever, and when another Secretary and another Commissioner come by-and-by I do not know how they will feel or what they will say."

When all the Indians who had anything to ask had signified their satisfaction, Buckskin Charlie announced his readiness to sign the allotment roll and the regular work of registration began. The tedious habits of the Indians caused this business to extend through several days, but at its conclusion 358 names were recorded. The formality in each case was the same. An Indian would present himself; his name and age would be looked up on the census roll; he would state that he wished to take an allotment of land; the clerk would enter his signature, and the Indian would touch the handle of the pen during the process. Where minor children were concerned, the head of the family would recite their names and ages and touch the pen in their interest as well as his own.

IRRECONCILABLE TESTIMONY.

It would have been far easier to reach some satisfactory solution of the Southern Ute problem if the leading advocates of successive schemes had not shifted their ground

at every new stage of the agitation. Such changes neither facilitate discussion nor impress the observer with a sense of the sincerity of the disputant making them.

Senator Wolcott, while urging the removal of the Indians to Utah, in some remarks before the Senate Committee on Indian Affairs on February 12, 1894, said:

The map shows the location of their present reservation The snow lies deep in that reservation during the winter, and they cannot properly preserve their cattle there, nor is there any game left on the reservation. The result is that such cattle as the Indians have left they have been in the habit of driving to Utah, where there is a large tract of ground suitable for their purposes and which has not been settled to any extent by white men. It is very important to them that they should be allowed to remove there and take with them such cattle as they have left, there to feed them, *and to use the land for hunting grounds.*

Later, in response to an inquiry whether the Interior Department had recommended the Utah reservation, Mr. Wolcott said:

During the administration of President Harrison Commissioner Morgan recommended the removal of the Indians to the proposed reservation. It was his belief that the Indians should be . . . Christianized, and their children sent to school. He believed that they should be put upon ground where there would be no inducements to the chase.

The Senator made no attempt to reconcile his own desire for the removal of the Indians to a reservation where they could hunt, with Commissioner Morgan's recommendation for their removal to the same reservation so as to put them where they would have no inducement to hunt and could therefore be civilized.

Equally uncertain seems to be the testimony of leading members of the Durango delegation to Washington as to the country on which the act of February 20, 1895, proposes to settle these Indians. Mr. Adair Wilson, a prominent lawyer, was in Washington in the winter of 1894-95 helping to pass the Hunter act, which proposes to spend twenty thousand dollars of the tribe's money in the pur-

chase of sheep to herd on their diminished reservation. Yet this same Mr. Wilson was in Washington early in 1894, and then addressed the Senate Committee on Indian Affairs, urging the removal of the Indians to Utah so that they would have a place where they could raise sheep. "*They have tried it in their present reservation,*" said he, "*and they know that it is utterly impossible to succeed.* All they can do on this reservation is to sit down and draw rations from the Government." And in response to Senator Wolcott's question, "Is it possible to make these Indians contented where they are?" he declared: "It is absolutely impossible; they will not stay." The transformation here indicated, both in the character of the country and the temper of the Indians, appears to have been accomplished in less than twelve months.

Senator Teller, during the debate on the Hunter bill, made three assertions concerning the eastern end of the present reservation which caused some confusion in the minds of those who listened to his speeches. To avoid the danger of trusting to memory for his words, I quote from the *Congressional Record*:

I.

The east end of the reservation, which is to be cut off, is absolutely uninhabitable—an uninhabitable section. * * The eastern part has never been inhabited by the Indians at all. They have never lived there. . . . The eastern end of this reservation has never been inhabited by Indians, and it never will be inhabited by whites.

II.

MR. VILAS. The Senator from Colorado cannot mean, I think, that the eastern end has not been inhabited by the Indians.

MR. TELLER. *I do not mean to say that the extreme eastern end has never been inhabited by them. . . . I mean to say that the eastern twenty-five miles of this strip that is to be taken off has never been settled or occupied by Indians. Now, as to the land which they occupy, it is good land.*

III.

I did not say that the land there [on the east end of the reservation] was not good land; I did not say that it was not valuable land.

In the same connection I cannot forbear quoting from two conversations which I held, within ten minutes of each other, in the city of Durango while I was there in June. I asked one intelligent citizen to explain to me why he and others were so opposed to a general allotment of lands among these Moaches and Capotes who wanted them.

"Because," he answered, "we cannot settle up this country with the kind of white people we want as long as these Indians hold lands here. They make the most undesirable kind of neighbors."

"In what respect?" I inquired.

"In every respect. Think, yourself, how you would feel if you were settled next to an Indian's farm and your business called you away from home. How would you enjoy the prospect of coming back to find your house burned, your crops destroyed, your wife and daughters barbarously maltreated, and perhaps your little children murdered? Yet that is the risk a white farmer runs when he goes away leaving his household at the mercy of his Indian neighbor. You would not like it any better than we, if you lived here."

With this dreadful picture still vividly before my mind's eye, I asked an old experienced ranchman with whom I talked next, what he thought of Indians as neighbors.

"The Indian makes the best neighbor in the world," he replied with some warmth. "I have had these Ute Indians for my next neighbors for seventeen years, and I never had a particle of trouble with them. I can give them a much better character for peacefulness and honesty than I could give many white men I've had to deal with in that time. My only reason for wanting the Indians removed from the east end of the reservation is a consideration for their welfare. Where they are, if left to themselves, they will surely die out; if they are moved

over to the west end of the reservation, they can be made prosperous and happy."

Between the prudential argument of one authority and the philanthropic argument of the other, it was hard for an outsider to know just how to interpret the local popular bent.

Again, one citizen having expatiated to me at some length on the wisdom of the report made by the Childs Commission, I drew his attention to the passage in that report which says frankly that "this reservation, traversed as it is by the following rivers, to wit: the Navajo, San Juan, Blanco, Pine, Florida, Animas, La Plata and Mancos, besides other smaller streams, and containing about 350,000 acres of rich farming land, which can be irrigated from the above rivers at but little expense, is . . . essential to the prosperity and development of this part of Colorado," etc. He listened impatiently, and exclaimed: "What nonsense! In the first place, the acreage of available land is far overestimated. In the second place, nobody about here cares a fig for the farming land; what Durango wants to get at is the coal lands, which the Indians are occupying and keeping out of the way of development. It is a dog-in-the-manger policy to let them stay there and prevent the opening up of these deposits."

On my remarking to the next citizen I met that I had at length discovered a commercial basis for Durango's interest in saving the Indians from the sad fate of staying where they are, he assented readily:

"Oh, yes; we want the country settled up."

"With white coal-miners," I suggested.

"Who said anything about coal?" he asked, with some asperity of manner. "There is not a man with an ounce of common sense who would take a coal claim on that reservation as a free gift. Coal property is a dead drug in this country. You can't give it away without throwing in something to boot."

These brief excerpts, unimportant in themselves, by their collation, serve to show the difficulties against which

one must struggle in an effort to discover the motives underlying the anti-Ute agitation in Southwestern Colorado. Having conversed freely with members of all parties and factions, and the representatives of all trades and professions, the only conclusion I could reach was that there was no common motive. One set of men wished to move the Utes so as to open the agricultural lands on the east end of the reservation; others, so as to develop the coal deposits; others, so as to procure railroad rights of way; others, so as to get at the water in the rivers at the most convenient level for irrigating enterprises; others, because the presence of the Indians in the neighborhood was a cause of constant nervous tremor; and others, in the hope of an influx of white "boomers" who would revive Durango's decadent trade, at least for a time. Last, but perhaps most important of all, stood a group of gentlemen who had

SOMETHING TO SELL TO THE GOVERNMENT.

To understand this phase of the subject requires the statement of a few facts not hitherto noticed. Of the rivers which water the Southern Ute reservation, all except the Mancos are confined to the east end, which it is proposed to throw open to white settlement. The Mancos is a poor apology for a river, which runs dry when most needed. The whole reservation lies in the arid belt, where artificial irrigation is necessary to any kind of agriculture. In the east end of the reservation the altitudes above sea level range between six and eight thousand feet, limiting the possible variety of crops; but having the advantage of abundant water, if properly husbanded, for domestic and irrigation purposes. The west end, on the contrary, contains about 130,000 acres of excellent land at altitudes ranging from 4,750 to 5,600, and therefore adapted to all sorts of agriculture, but now a desert waste, apparently irredeemable except by bringing water into it from outside through artificial channels. The few local springs which the Weeminuches use for their family supplies and for

watering their ponies are insignificant, measured by the standard of any greater requirement. The Dolores river, however, is a well-fed stream which runs for about forty miles through Montezuma county, the county adjoining the diminished reservation on the north.

Some years ago two corporations were organized for the purpose of tapping this river, irrigating the farming country thereabout, and selling land, with water privileges, to settlers who might be attracted by their enterprise. The companies laid out their work on a generous scale, spent a good deal more money than the immediate returns would warrant, and were both absorbed by a successor, the Colorado Consolidated Land and Water Company. This concern, in its turn, presently found itself in a state of collapse. The expected influx of ranch-seekers had not followed its outlay; and the rents for water privileges which had been expected to pay fixed charges, running expenses and a dividend, were consequently not forthcoming. John V. Farwell, of Chicago, who had interested himself in the enterprise to the extent of inducing a number of English capitalists to invest in it, felt in honor bound to make good the guaranties he had given his friends, and when the property and franchises of the Consolidated Company were sold under the sheriff's hammer in 1892 for non-payment of taxes, he bid them in. Since then he has carried the burden substantially alone, paying from his own pocket the taxes annually levied upon this company and another—the Montezuma Valley Irrigation Company—organized last year for the purpose of absorbing the Consolidated; for the rentals have been only sufficient to pay the expenses of service and repairs. The tax-debtor in such a case has an equity of redemption for three years, and the equity in this instance will expire next month; but the president of a leading bank in Durango which has handled a large quantity of the latest company's securities, and is therefore interested in putting it upon its feet, asserts that the tax sale at which Mr. Farwell was the successful bidder can be set aside, because growing out

of an assessment technically invalid. At present, Mr. Farwell and the other creditors of the company seem to be united in purpose, it being for the advantage of all that the irrigation company should overcome its difficulties; but should he take any step for his own protection adverse to the company's interests, such as demanding a final tax-title deed and acting under it, there would probably be a struggle in the courts.

The leading men representing the company in various capacities are desirous of having all the Southern Utes settled on the diminished reservation and there supplying them with water. The irrigating ditches already constructed and in operation bring the water down almost to the northern border of the reservation, and their plea is that from that point onward the necessary ditches could be made at comparatively small cost and the water rented from the company at a fixed yearly rate. The company stands ready, they say, to give satisfactory bonds for any contract it may enter into with the Government. What Congress may decide to do in this line for the six or seven hundred Indians who are hereafter to occupy the diminished reservation, will not be known for several months yet. In view, however, of the number of defalcations of well-bonded public officers in Durango and its neighborhood during the last few years, it would be wise to exercise extreme caution. Conditions are possible under which it might be worth more to the conductors of a business enterprise to sacrifice their bonds than to fulfill a contract which proved unexpectedly unprofitable. Moreover, if the company is really as confident as it appears to be that the arrangement it proposes will inure to the mutual benefit of itself and the Government, it would surely be willing to prove its faith by its works—run ditches independently through the reservation and fill them with water, so as to show that it is capable of doing all it assumes to—and then contract with the Government. The only difference between the two plans is that, under the latter, it is the Government which would be secure and

the company which would have to take the risks. The novelty of the idea of protecting the Government rather than the contractor might make the plan I suggest obnoxious to some of the parties in interest, but that would scarcely be accepted by the public at large as a conclusive argument against it.

Some alternative suggestions have been advanced, looking to the same end of supplying this region with water. These were considered at a time when the probability of the removal of the Southern Utes to Utah gave a speculative interest to the question, how the land could be irrigated for the white settlers who would presently pour in. One idea was to make reservoirs at the foot of Ute Peak, to catch the water which came down the ravines from melting snows in the spring. Another was to dam the canyon of the Mancos, and store the waters of the river each season before it ran dry. Practical men who have looked the ground over have discredited both plans. Still a third project, involving an uncertain expense which it is feared Congress would be unwilling to undertake, is to bore two or more artesian wells at convenient points, from which it would be reasonable to expect a never-failing supply.

The Secretary of the Interior will have to make a very thorough study of the irrigation problem on all parts of the present reservation. The impossibility of ever winning the Weeminuches over to an agricultural life without the water supply which offers the only hope of redeeming their arid desert, makes it necessary that the new diminished reservation should be furnished with abundant means of irrigation; and on the east end of the present reservation, where the Moaches and Capotes will be settled in severalty, every precaution must be taken to insure to these Indians the fullest protection and privileges allowed them by law. Riparian rights are regulated by Colorado statutes, under which individual proprietors file claims for running ditches that will carry certain amounts of water out of the rivers. These claims are adjudicated and patents issued on them

in the order in which they are "proved up." It behooves the Department of the Interior, therefore, to be forehanded with its work of filing claims in behalf of the Indian proprietors who will have possession of so much land in severalty with the opening of the east end of the reservation. It may be necessary, however, for Congress to acquire some land now owned by whites to the north of the reservation in order to get at the most available source of supply for some of the ditches run in the Indians' behalf.

LOCAL POPULAR FEELING.

Discussing these matters with a leading lawyer of Durango who has been a conspicuous figure in the Southern Ute negotiations, I suggested to him the possibility that a considerable appropriation would be needed next session to pay for necessary improvements, and that I hoped to see the Colorado delegation in Congress a unit in pressing this legislation. He answered that, if things had gone as the people of Durango had expected they would when the Ute bill passed, there would have been no trouble; as it was, he was unprepared to say, for public feeling thereabout was very bitter against the National Administration, which was regarded as having acted in bad faith. I then went over all the salient points in the law, and asked him to point out a single one which the Secretary of the Interior had transgressed. As he was not able to, I inquired whether it would not be more patriotic and sensible for the Colorado delegation to forego the luxury of lamenting a situation which it was powerless to change and devote its energies to procuring an appropriation large enough to do all the necessary work in the most satisfactory manner. He answered in a guarded way that the people of Durango had great faith in Senator Teller's sagacity, and that whatever policy the Senator decided to pursue would be satisfactory to them—a reversal of the theory so generally held in other parts of the country that a member of Congress represents his constituency instead of governing it.

The spirit manifested by this lawyer, who is one of the

ablest and most intelligent men in Durango, appears to be only typical of the spirit animating all his fellow citizens at the present stage of the Southern Ute business. The ruling desire seems to be to "get even" with everyone interested in the execution of the law, rather than to make the best of an unsatisfactory matter. One would suppose that, as the law authorized the settlement of Indians in severalty on the east end of the present reservation, and the number thus settled promised to be large, the part of wisdom would be to make everything as easy as possible for the officers of the United States Government who are charged with the duty of educating these Indians in the arts of civilization. If the work of education is a success, the whole white population of Southwestern Colorado will profit by the improvement in the condition of their Indian neighbors and fellow citizens. But if, on the other hand, as is claimed by the white people of Durango, allotment is a perilous experiment at best, and as applied to the Utes is bound to prove a failure, it is hard to see why every encouragement and facility is not afforded locally, so that the failure, when it comes, will be monumental, and the prophets of evil can point to it and say: "Here is the result of your experiment made under the most auspicious possible conditions." If the Colorado people fail to give the Government such a measure of support, it will indicate that they lack faith in their own logic and are simply determined that their prediction of failure shall be fulfilled, no matter at what cost.

Of a piece with the rest of the tactics pursued is the war made upon David F. Day, the agent for the Southern Utes, in retaliation for the stand he took in behalf of the rights of the Indians and for carrying the policy of his superior officers into execution. Every effort has been made to oust him from his office and make even his residence in Durango too uncomfortable for endurance. Mr. Day has been a citizen of Durango for several years, and for a long time before that lived at Ouray, which is near enough to Durango to enable every prominent member of the one

community to know every prominent member of the other, at least by reputation. It would be absurd for any business man of Durango, therefore, to plead ignorance of the character of the agent at the time of the latter's appointment; yet on Day's official bond are the names of the leading business men of Durango. Clever men pledge their fortunes and their honor in this way only on one of two conditions: they either have faith in the capacity and uprightness of the beneficiary, or they believe that they will be able to use him to some end so profitable as to pay them well for taking the risk. In the present instance it is immaterial to inquire which of these purposes moved the bondsmen to proffer their service to the agent-elect. It suffices that, with their eyes open and of their own accord, they made themselves responsible for his good conduct in office. In courtesy we are bound to give them the benefit of any doubt, and assume primarily that they testified to Day's ability and honesty in good faith; and then arises the question, why they should have turned upon him and denounced him as a malefactor as soon as he showed his loyalty to the Government whose servant he had become, and to the Indians he had pledged himself to protect? If we should shift our point of view and assume that the agent's bondsmen helped him into his present position, not because they believed he would be faithful to his sworn trust, but because they were planning to use him for the furtherance of designs of their own, we should be obliged to attribute their change of attitude to disappointment; and to honest men's minds this would certainly be an argument in the agent's favor.

Apart from the open warfare upon Day, there has been maintained a systematic course of petty annoyance, perfectly obvious to any intelligent observer on the ground, however difficult of technical proof. Until within a few months it has been the practice of Chief Ignacio and other Weeminuche leaders to go over to the agency at certain stated periods for their supplies, but all at once they ceased doing this. From some source, presumptively

white and necessarily unofficial, these men had received an intimation that if they stayed at home they could force the agent to come over to them. This is precisely the policy which would naturally be urged upon them by outside parties interested in hastening the removal of all the Indians, and the agency with them, to the diminished reservation in the Weeminuche country; and it was worthy of note, even if only as a coincidence, that the argument used by the whites in Durango to convince me that Ignacio and his lieutenants were doing right, took this general form:

a. Ignacio is the good friend of the white people, standing between them and the rebellious spirits in his tribe, and hence has a right to demand every consideration for his convenience and comfort.

b. The act of 1895 calls for the retention of enough land on the diminished reservation to furnish a site for the necessary agency buildings; and this is in the nature of a pledge by the Government that the agency shall be removed to the diminished reservation, where it would be much easier for Ignacio and his band to draw their supplies.

c. The agent and the agency employes would find it more agreeable not to make this change, as their present quarters are pleasanter than the new ones would be; hence their disposition is to delay removal as long as possible.

d. Ignacio is therefore justified in keeping away from the agency and putting the Government to such expense in conveying the supplies to him and his band that in self-defence it will hasten the removal of the agency according to the promise held out by the act of 1895.

To a mind not saturated with a sense of Ignacio's superiority to the Government of the United States, it appears as if the argument might be stated better thus:

a. Until the new surveys are made, the lands taken up by the allottees set apart for them, and the remnant of the tribe removed from the east end of the present reserva-

tion to the new diminished reservation, there is no promise, express or implied, of the removal of the agency.

b. Until such removal, it is the business of Ignacio and his band, if they want their share of the supplies furnished by the Government, to go for them to the agency as the other Indians do.

c. If they do not see fit to take this trouble, they may go without their supplies.

Nothing could be further from the intent of this report than to approve of any violation of its obligations by the Government, however indirect, or of any unnecessary harshness in the performance of those obligations. But the practice of letting an unprogressive and civilization-hating old chief trade upon his influence over the warlike spirits in his following, and bully the Indian Bureau into needless trouble and expense as the price of maintaining a state of peace, is demoralizing to the Indians concerned and in derogation of the dignity of the Government; and against it every good citizen is bound to protest.

WHAT WILL CONGRESS DO?

This report is already longer than I intended to make it, but in looking back over what I have written I can find little which could be omitted without robbing the rest of at least an important side-light of interpretation. I have endeavored to make it historically accurate, and for that reason prefer not to mar its general character by any ambitious attempt at a forecast of coming events. From several unauthoritative sources I have received warnings that last summer's operations in the Southern Ute country would be made the subject of an investigation by one or the other House of Congress. I sincerely hope this is true, provided the inquiry be so thorough as to bring out not merely part of the facts, but all. The whole matter can thus be sifted, and the evidence spread upon the public records. If it be true, however, as further rumored, that an effort will be made to induce Congress to reverse

and annul the action of the executive branch of the Government because too many Indians have been permitted to take lands in severalty, the Senators from Colorado must surely oppose the movement. It would be an insult to their good faith which they could not afford to brook, even from constituents suffering from undue excitement.

Senator Wolcott, for example, in debate with Senator Vilas on January 18, 1895, about the freedom of the Indians to take land in severalty, said:

"I asked the Senator from Wisconsin, do you wish to compel them to take it whether they want it or not?"

"No," answered Mr. Vilas.

"Then," said Mr. Wolcott, "what is the objection to letting the Secretary of the Interior pass upon their fitness to take it?"

Again, in the course of the same debate, Mr. Wolcott declared:

I am sure *I am ready to trust a Secretary of the Interior to determine as to whether the Indian should have an allotment of lands. He is not deprived of it if he does not take it.*

Mr. Teller, on June 17, 1894, answered a question from Senator White, whether the Indians would be forced to go upon their new reservation, in these words:

They will not be forced on it. Those who choose to remain under this proposed act can take their lands in severalty and remain where they are.

And again, in debate with Senator Vilas, on January 28, 1895:

All the Indians may stay on the east end of the reservation if they choose to select their land there. . . .

There is land enough there [on the diminished reservation] to make every one of these Indians a good home. I do not suppose that very many of them would take homes there. If they desire to take homes on the east end of the reservation, they are permitted to do so under this bill

Every Indian may stay on any acre of that country that he chooses under this proposed law.

But the crowning stroke of all, as indicating Senator Teller's approval in advance of the course which the Secre-

tary later followed, occurs in the following passage in the same debate:

MR. VILAS. The only law which specifies any qualifications of the Indians to take allotments is this very act itself, and I should like the Senator to say what it means. What is to be the direction of the Secretary of the Interior by which he is to determine the qualifications?

MR. TELLER. I do not know. That is left to the Secretary of the Interior, and *he will determine, I suppose, if the Indians want to stay there, that they are qualified to remain.* I have no doubt he will so determine. *He can make no distinction between them.*

To refuse now to carry out, in letter and spirit, the latest agreement with the Southern Utes, after having kept them for seven years in a state of continual unrest, would be a very serious matter. It is hard to believe that the residents of Southwestern Colorado, which would be the scene of any trouble that might break out as a consequence of further fast-and-loose methods in our dealings with these Indians, would urge such a course upon Congress. But as there are rash men in every community, it is reassuring to find in the official record such frank declarations as I have quoted from both the Colorado Senators, and especially an assertion from Senator Teller that the course pursued by the Secretary of the Interior last summer is the only practicable one. It now remains to be seen how far Mr. Teller will contribute his powerful assistance toward the further legislation needed to make a thorough success of the policy which he mapped out for the Secretary.

As I close this report, a commission of three is engaged in allotting lands in severalty on the east end of the reservation to those Indians who have signed the allotment-roll. Julius Schuetze of Austin, Texas, is chairman of the commission, Agent Day and Mr. Kidd filling the other two places respectively. The number of allotments will be between three and four hundred.

WASHINGTON, D. C., SEPTEMBER 30, 1895.

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